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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

15 CR 643 (PKC)

5 JARED GALANIS, et al,

6 Defendants.

7 -----x

8 New York, N.Y.
9 August 22, 2016
2:30 p.m.

10 Before:

11 HON. KEVIN P. CASTEL,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
Southern District of New York

17 REBECCA MERMELSTEIN

BRIAN BLAIS

Assistant United States Attorney

18 JAMES LASSART, ESQ.

19 Attorney for Defendant

G8MFGALP

Plea

1 (Case called)

2 (In open court)

3 THE COURT: This is United States v. Jared Galanis.
4 Is the government ready?

5 MS. MERMELSTEIN: We are. Good afternoon, your Honor.
6 Rebecca Mermelstein and Brian Blais for the government.

7 MR. BLAIS: Good afternoon, your Honor.

8 THE COURT: Good afternoon to you both. And for the
9 defendants?

10 MR. LASSART: Good afternoon. James Lassart appearing
11 on behalf of Mr. Galanis. My client is present, your Honor.

12 THE COURT: Mr. Galanis, I've been told that you wish
13 to enter a plea of guilty to Count Eight of the indictment. Is
14 that correct?

15 THE DEFENDANT: That is correct, your Honor.

16 THE COURT: All right, please be seated, Mr. Galanis.
17 Before I accept a guilty plea from you, I must satisfy myself
18 that you understand the rights you would have if this case went
19 to trial, the rights you're giving up by pleading guilty and
20 that there's a factual basis for the plea of guilty. Further,
21 that you understand the consequences of pleading guilty.

22 In a moment I'm going to place you under oath and ask
23 you certain questions, inform you of certain rights. If I ask
24 you something or I tell you something and you don't quite
25 understand, please let me know and I'll put it into different

G8MFGALP

Plea

1 words. Also, if at any point in today's proceeding you wish to
2 speak in private with your lawyer, I'll give you the
3 opportunity to do so. Do you understand all that?

4 THE DEFENDANT: I do, your Honor.

5 THE COURT: All right. Please stand and raise your
6 right hand.

7 (Defendant sworn)

8 THE COURT: Please be seated. You are now under oath
9 and your answers to my questions are subject to the penalties
10 of perjury or of making a false statement if you do not answer
11 truthfully. Also, anything you say today may be used in any
12 such prosecution. Do you understand all that?

13 THE DEFENDANT: I do, your Honor.

14 THE COURT: All right. How old are you, sir?

15 THE DEFENDANT: 37 years old, your Honor.

16 THE COURT: And how far did you go in school?

17 THE DEFENDANT: I went to law school, but I also
18 obtained two master's degrees after law school as well.

19 THE COURT: In what fields?

20 THE DEFENDANT: Financial analysis and intellectual
21 property law.

22 THE COURT: Are you a member of the bar anywhere?

23 THE DEFENDANT: I am, your Honor.

24 THE COURT: Where?

25 THE DEFENDANT: The state of California, the District

G8MFGALP

Plea

1 of Columbia and the State of New York.

2 THE COURT: Are you now or have you recently been
3 under the care of a medical doctor?

4 THE DEFENDANT: No.

5 THE COURT: Have you ever been treated for a mental
6 illness?

7 THE DEFENDANT: Anxiety, your Honor.

8 THE COURT: All right. And do you take any
9 medications for that?

10 THE DEFENDANT: I do not, your Honor.

11 THE COURT: Okay. Have you ever been addicted to any
12 substance; alcohol, marijuana, prescription medications,
13 cocaine, crack, heroin, anything?

14 THE DEFENDANT: No, your Honor.

15 THE COURT: How do you feel today?

16 THE DEFENDANT: I feel good, your Honor.

17 THE COURT: Is your mind clear?

18 THE DEFENDANT: It is, your Honor.

19 THE COURT: Do you understand what's happening?

20 THE DEFENDANT: I do, your Honor.

21 THE COURT: Does defense counsel have any doubts as to
22 the defendant's competence to enter an informed plea?

23 MR. LASSART: I do not, your Honor.

24 THE COURT: Based upon my observations, Mr. Galanis is
25 fully competent to enter an informed plea.

G8MFGALP

Plea

1 Mr. Galanis, have you had enough time to consider all
2 of your options in this case?

3 THE DEFENDANT: I have, your Honor.

4 THE COURT: Have you discussed possible defenses to
5 the charges with your lawyer?

6 THE DEFENDANT: I have, your Honor.

7 THE COURT: Are you satisfied with your lawyer's
8 representation of you?

9 THE DEFENDANT: I am, your Honor.

10 THE COURT: All right. I'm now going to explain to
11 you certain rights that you would have if the case went to
12 trial and rights you're giving up by pleading guilty. Under
13 the Constitution and laws of the United States, you are
14 entitled to a speedy and public trial before an impartial jury
15 on the charges contained in the indictment. Do you understand
16 that?

17 THE DEFENDANT: I do, your Honor.

18 THE COURT: If there were such a trial, the government
19 would be required to prove each element of each crime by proof
20 beyond a reasonable doubt. You would not have to prove you
21 were innocent. Before you could be found guilty, a jury of
22 twelve people would have to agree unanimously that you were
23 guilty. Do you understand all that?

24 THE DEFENDANT: I do, your Honor.

25 THE COURT: If there were a trial, at every stage of

G8MFGALP

Plea

1 your case you would be entitled to be represented by a lawyer
2 and if you could not afford a lawyer one would be appointed at
3 public expense. Do you understand?

4 THE DEFENDANT: I do, your Honor.

5 THE COURT: If there were a trial the witnesses for
6 the government would have to come to court to testify. You
7 would be able to see and hear them. Your lawyer could question
8 them through cross-examination. Your lawyer could object to
9 evidence offered by the government. Your lawyer could present
10 evidence and could ask the Court to compel witnesses to appear
11 at trial on your behalf. Do you understand all that?

12 THE DEFENDANT: I do, your Honor.

13 THE COURT: If there were a trial you would have the
14 right to testify if you chose to do so. You could come up here
15 and take the witness stand. Also, you would have the right not
16 to testify and no one would be permitted to draw any inference
17 or suggestion of guilt from the fact that you decided not to
18 testify. Do you understand all that?

19 THE DEFENDANT: I do, your Honor.

20 THE COURT: If there were a trial and the jury found
21 you guilty, you would have the right to appeal that finding.
22 Do you understand that?

23 THE DEFENDANT: I do, your Honor.

24 THE COURT: Now, those are the rights you would have
25 if you went to trial. If you plead guilty and I accept your

G8MFGALP

Plea

1 plea of guilty there will be no trial. You will proceed to the
2 sentencing phase in which the Court will determine the
3 punishment to be imposed upon you. Even now you have the right
4 to change your mind. Instead of pleading guilty, you may plead
5 not guilty and go to trial. Do you wish to plead not guilty
6 and go to trial?

7 THE DEFENDANT: No, your Honor.

8 THE COURT: Do you understand that you are charged in
9 Count Eight of the indictment with the crime of misprision of a
10 felony? Do you understand that?

11 THE DEFENDANT: I do, your Honor.

12 THE COURT: Do you understand that Count Eight carries
13 a maximum sentence of imprisonment of three years, a maximum
14 term of supervised release of one year, a maximum fine of the
15 greatest of \$250,000, twice the gross pecuniary or monetary
16 gain derived from the offense or twice the gross pecuniary loss
17 to persons other than yourself as a result of the offense and a
18 mandatory \$100 special assessment. Do you understand all that?

19 THE DEFENDANT: I do, your Honor.

20 THE COURT: Do you understand that the Court must
21 order that you make restitution to any person who I find was
22 injured by reason of your conduct? Do you understand that?

23 THE DEFENDANT: I do, your Honor.

24 THE COURT: With regard to supervised release, there
25 are terms and conditions attached to it, and if you do not live

G8MFGALP

Plea

1 up to those terms and conditions you could be returned to
2 prison for the full period of supervised release. So say you
3 receive a prison term, to be followed by a term of supervised
4 release and you complete your prison term, you're now on
5 supervised release and you live up to the terms of supervised
6 release for three months but then you violate one of the terms,
7 you can be returned to prison for the full period of supervised
8 release, which may be up to one year on supervised release. Do
9 you understand all that?

10 THE DEFENDANT: I do, your Honor.

11 THE COURT: Are you a U.S. citizen?

12 THE DEFENDANT: I am, your Honor.

13 THE COURT: Among the consequences of pleading guilty
14 is you may give up other valuable civil rights, such as the
15 right to vote, to hold public office, to sit on a jury, to hold
16 certain licenses, including your license to practice law, to
17 hold or possess a firearm, to receive certain government
18 benefits. Do you understand that?

19 THE DEFENDANT: I do, your Honor.

20 THE COURT: All right. Are you serving any other
21 sentence, state or federal, or being prosecuted in state court
22 for any crime?

23 THE DEFENDANT: No, your Honor.

24 THE COURT: In sentencing you, I will receive a
25 presentence report prepared by the office of probation that

G8MFGALP

Plea

1 gives me background information and a recommended range of
2 sentence under the sentencing guidelines. After hearing from
3 your lawyer and from the government, I will make my own
4 determination of the correct guideline range that applies in
5 your case. Even after determining the correct guideline range
6 I need not follow it and can sentence you all the way up to the
7 statutory maximum. The guidelines are advisory and they are
8 not binding on the Court. They are one of the factors that the
9 Court takes account of in determining sentence under the
10 sentencing statute commonly known as Section 3553(a). Do you
11 understand all that?

12 THE DEFENDANT: I do, your Honor.

13 THE COURT: Now, I understand there's been a plea
14 agreement reached between you and the government and it's
15 reflected on a five-page letter agreement on the letterhead of
16 the Department of Justice and bearing the date of August 18,
17 2016. I'll ask the clerk to place that in front of you. Is
18 that your plea agreement with the government?

19 THE DEFENDANT: It is, your Honor.

20 THE COURT: Is that your signature on the last page?

21 THE DEFENDANT: It is, your Honor.

22 THE COURT: Did you read it before you signed it?

23 THE DEFENDANT: Yes, I did, your Honor.

24 THE COURT: Did you discuss it with your lawyer before
25 you signed it?

G8MFGALP

Plea

1 THE DEFENDANT: Yes, I did, your Honor.

2 THE COURT: Did you understand it before you signed
3 it?

4 THE DEFENDANT: Yes, I did, your Honor.

5 THE COURT: Did anyone threaten you or force you in
6 any way to enter into the plea agreement or to plead guilty?

7 THE DEFENDANT: No, your Honor.

8 THE COURT: Did anyone give you anything of value or
9 promise you anything in order to get you to plead guilty?

10 THE DEFENDANT: No, your Honor.

11 THE COURT: Does your plea agreement contain all of
12 your understandings with the government?

13 THE DEFENDANT: It does, your Honor.

14 THE COURT: Mr. Galanis, I want you to know that any
15 prediction, calculation or estimate that anyone has made to you
16 as to what sentence I may give you is not binding on the Court
17 and if it turns out to be wrong you will not be permitted to
18 withdraw your guilty plea. Do you understand that?

19 THE DEFENDANT: I do, your Honor.

20 THE COURT: Now, one of the features of your plea
21 agreement with the government is that you and the government
22 have agreed upon a guideline range that applies in this case
23 which the plea agreement calls the stipulated guideline range
24 and which is the range of 30 to 36 months' imprisonment. Is
25 that correct?

G8MFGALP

Plea

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: That agreement is binding on you and it is
3 binding on the government, but it is not binding on the Court.
4 As I said, I have my own obligation to determine the correct
5 guideline range in this case. If I determine that the proper
6 guideline range is higher than the one you agreed to with the
7 government, you will not be permitted to withdraw your guilty
8 plea. Do you understand that?

9 THE DEFENDANT: I do, your Honor.

10 THE COURT: All right. Now, one of the features of
11 your plea agreement with the government is if I should sentence
12 you within the stipulated guideline range of 30 to 36 months'
13 imprisonment, or above that range, the government has agreed
14 not to appeal. But you have agreed that if I sentence you
15 within the stipulated guideline range of 30 to 36 months'
16 imprisonment or below that range, that you will not appeal or
17 attack the sentence. Do you understand that?

18 THE DEFENDANT: I do, your Honor.

19 THE COURT: You have waived your right to appeal or
20 collaterally attack the sentence unless the sentence is above
21 the stipulated guideline range set forth in the plea agreement
22 and in that event the law will only allow you to appeal on the
23 basis that the sentence is unreasonable or contrary to law. Do
24 you understand that?

25 THE DEFENDANT: I do, your Honor.

G8MFGALP

Plea

1 THE COURT: Ms. Mermelstein, what are the elements of
2 Count Eight and what in summary would be the government's
3 evidence on Count Eight if this case went to trial?

4 MS. MERMELSTEIN: The elements are, first, that the
5 felony of conspiracy to commit securities fraud alleged in the
6 indictment in Count One was committed by someone other than the
7 defendant, in this case, John Galanis and others.

8 Second, that the defendant had knowledge of the
9 commission of the felony.

10 Third, that the defendant failed to notify the
11 relevant federal authorities about the commission of the
12 offense, and, fourth, that the defendant deliberately took some
13 affirmative step to conceal the crime as described in the
14 indictment.

15 If the case proceeded to trial the government would
16 prove through documentary evidence and witness testimony that
17 Jared Galanis was aware that John Galanis, Jason Galanis, Derek
18 Galanis, Ymer Shahini and others participated in a conspiracy
19 to commit securities fraud, I note a securities fraud for which
20 there was venue in the Southern District of New York,
21 principally, or at least in part, because Gerova shares were
22 traded on the New York Stock Exchange, whose servers were at
23 that time located in the Southern District of New York; that
24 Jared Galanis did not notify the relevant federal authorities
25 of the events and indeed took steps to conceal the crime, in

G8MFGALP

Plea

1 particular, among other steps to conceal, the government would
2 prove that Jared Galanis provided John Galanis with a cellular
3 telephone registered in Jared Galanis' name which John Galanis
4 used to coordinate matched trading with Gavin Hamils; that
5 Jared Galanis provided John Galanis with access to Jared
6 Galanis' law firm's e-mail account, which John Galanis used to
7 coordinate matched trading with James Tagliaferi and otherwise
8 to communicate with James Tagliaferi about various aspects of
9 the fraud and Jared Galanis dispersed proceeds of the fraud
10 through his law firm's IOLTA account.

11 THE COURT: When you say IOLTA account, you mean
12 interest on lawyers trust account?

13 MS. MERMELSTEIN: Yes, your Honor.

14 THE COURT: Thank you. Mr. Galanis, please tell me in
15 your own words what you did that leads you to believe that you
16 are guilty of the crime charged in Count Eight?

17 THE DEFENDANT: Your Honor, I am guilty of having
18 ultimately acquired actual knowledge of my father, John
19 Galanis' participation in an agreement to commit securities
20 fraud and I am guilty of concealing his participation in this
21 fraudulent scheme and not report this to law enforcement
22 authorities. While I did not initially know that my father was
23 impersonating me to perpetuate this fraud I did eventually
24 become aware of his impersonation I did not report this to any
25 law enforcement authorities and I did in fact conceal this.

G8MFGALP

Plea

1 THE COURT: All right. Did you know what you were
2 doing was wrong and unlawful?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: All right. And Mr. Lassart, is there any
5 basis to refute the government's proffer on venue in this case?

6 MR. LASSART: No, your Honor.

7 THE COURT: All right. Are you aware of any reason
8 why I should not accept your client's guilty plea in this case?

9 MR. LASSART: I'm not, your Honor.

10 THE COURT: Are you aware of any defense that would
11 likely prevail at trial?

12 MR. LASSART: I'm not, your Honor.

13 THE COURT: Okay. All right. Mr. Galanis, do you
14 have any questions for me?

15 THE DEFENDANT: No, your Honor.

16 THE COURT: With regard to Count Eight of the
17 indictment, how do you plead; guilty or not guilty?

18 THE DEFENDANT: Guilty, your Honor.

19 THE COURT: Based upon your responses to my questions
20 and my observations, I find that you know your rights, you know
21 the consequences of pleading guilty and there's a factual basis
22 for your plea of guilty. Further, I find that your plea
23 agreement was knowingly and voluntarily entered into, including
24 the provision waiving the right to appeal or collaterally
25 attack the sentence under specified circumstances. Your plea

G8MFGALP

Plea

1 of guilty is accepted. I will order a presentence
2 investigation and report and direct that no interview of you
3 take place unless your lawyer is present. It's important that
4 you be truthful and honest with the people who prepare the
5 presentence report, tell them the good things and even the not
6 so good things because the report will be important in my
7 decision on sentencing. Before the date of sentencing, you
8 will have an opportunity to review that report. I urge you to
9 go through it carefully. If there are any mistakes point them
10 out to your lawyer so that he can point them out to me.

11 Mr. Lassart, I am going to direct that you set a date
12 for an interview of your client with probation within the next
13 14 days and I'm going to direct that the government provide its
14 description of the offense conduct to probation in that same
15 time period.

16 I will set a date for sentencing for December 2 at
17 2:30 p.m. Is there anything further from the government?

18 MS. MERMELSTEIN: No, your Honor.

19 THE COURT: Anything further from the defendant?

20 MR. LASSART: No, your Honor.

21 THE COURT: All right, we're are adjourned. Thank
22 you.

23 (Adjourned)
24
25